

REMARKS

In the Office Action¹, the Examiner took the following actions:

- (1) rejected claims 1-10, 19-28, 37-46, and 57-59 on the grounds of nonstatutory obviousness-type double patenting over claims 1-26 of U.S. Patent No. 7,190,773 to D'Silva et al. ("*D'Silva*"); and
- (2) rejected claims 1-10, 19-28, 37-46, and 57-59 under 35 U.S.C. § 103(a), as being allegedly unpatentable over U.S. Patent No. 6,167,119 to Bartholomew, et al. ("*Bartholomew*") in view of U.S. Patent Publication No. 2001/0040954 to Brachman, et al. ("*Brachman*").

By this Amendment, Applicants have amended claims 1-4, 6-9, 19-22, 24-27, 37-40, 42-45, and 57-59. Claims 10, 28, and 46 are cancelled without prejudice or disclaimer, and claims 11-18, 29-36, and 47-56 were previously withdrawn from consideration. Accordingly, claims 1-9, 19-27, 37-45, and 57-59 remain under examination.

I. Summary of Substance of Examiner Interview

Applicants thank the Examiner for conducting a telephone interview with Applicants' representatives, Robert E. Converse, Jr., and James A. Cooke, on August 17, 2009. A summary of the interview and correspondence is provided below.

Applicants' representatives and the Examiner discussed the rejection of claims 1-10, 19-28, 37-46, and 57-59 under 35 U.S.C. § 103(a). Applicants' representatives

¹ As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, ability to combine references, assertions as to patentability of dependent claims) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such in the future.

proposed amendments to independent claims 1, 19, 37, and 57-59 to recite, for example, the step of generating an instruction "based on a functionality of one or more components servicing the at least one of the two or more communications lines." Applicants' representatives noted that *Bartholomew* and *Brachman* fail to disclose or suggest at least these above-noted elements of independent claims 1, 19, 37, and 57-59.

The Examiner disagreed with this interpretation of *Bartholomew* and *Brachman*, and the Examiner maintained that *Bartholomew* and *Brachman* collectively disclose the above-noted elements recited by independent claims 1, 19, 37, and 57-59. The Examiner recommended additional claim amendments to overcome *Bartholomew* and *Brachman*. Although Applicants' representatives did not agree that the additional amendments were needed to overcome the prior art, they agreed to consider these proposed amendments. No final agreement was reached during the interview regarding the status of claims 1, 19, 37, and 57-59 in view of *Bartholomew* and *Brachman*.

Applicants also thank the Examiner for considering additional claim amendments in email correspondence of September 8, 2009, and September 11, 2009. Applicants' representatives forwarded additional proposed amendments to independent claim 1 to the Examiner on September 8, 2009. In email correspondence of September 11, 2009, the Examiner indicated that these proposed amendments would place independent claim 1 in condition for allowance. The Examiner also requested that Applicants amend independent claims 19, 37, and 57-59 to be consistent independent claim 1, and

Applicants' representatives agreed to present these further amendments in a formal written response to the Office Action.

II. Rejection of Claims 1-10, 19-28, 37-46, and 57-59 under Non-statutory Obviousness-Type Double Patenting

Applicants respectfully traverse the rejection of claims 1-10, 19-28, 37-46, and 57-59 under the judicially-created doctrine of obviousness-type double patenting in light of claims 1-26 of *D'Silva*. The Office Action alleges that "[a]lthough the conflicting claims are not identical, they are not patentably distinct from each other because the application claims are a broader recitation of the network signaling claimed in [*D'Silva*]" (emphasis added). Office Action at 2. However, this is inaccurate.

Even assuming that this characterization was accurate at some point during the prosecution of this application, which Applicants do not concede, Applicants respectfully submit that claims 1-9, 19-27, 37-45, and 57-59, as amended, are patentably distinct from the claims of *D'Silva*, and Applicants respectfully request the reconsideration and withdrawal of the rejection of claims 1-9, 19-27, 37-45, and 57-59 under the judicially-created doctrine of obviousness-type double patenting. As claims 10, 19, and 46 have been cancelled without prejudice or disclaimer, the double patenting rejection of these claims is rendered moot.

III. Rejection of Claims 1-10, 19-28, 37-46, and 57-59 under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 1-10, 19-28, 37-46, and 57-59 under 35 U.S.C. § 103(a), as being allegedly unpatentable over *Bartholomew* in

view of *Brachman*. A *prima facie* case of obviousness has not been established with respect to any of these claims.

"The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. . . . [R]ejections on obviousness cannot be sustained with mere conclusory statements." M.P.E.P. § 2142, 8th Ed., Rev. 7 (July 2008) (internal citation and inner quotation omitted). "[T]he framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art." M.P.E.P. § 2141(II). "Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." M.P.E.P. § 2141(III).

Independent claim 1, as amended, recites, for example, "receiving line management information [comprising] . . . information identifying [a] communications line" and "information requesting a modification to the identified communications line, the requested modification identifying an additional communications device to which calls received by the identified communications line are forwarded." Further, for example, independent claim 1 also recites "determining whether the requested modification changes a procedure for handling of calls received by the identified communications line," and "generating an instruction to implement the requested modification when the requested modification changes the procedure, the generated

instruction being based on a functionality of a component of the voice network that services the identified communications line.” Support for these amendments can be found throughout the originally-filed specification; see, for example, paragraphs [098]-[0104] and [0124]-[0128]. *Bartholomew* and *Brachman*, taken alone or in combination, fail to disclose or suggest at least these elements recited by independent claim 1.

The Office Action alleges that *Bartholomew* discloses “a contact specific method of managing two or more communications lines for a user . . . where a [user’s] calls are forwarded . . . to predetermined destinations based on a stored profile.” Office Action at 3. In support of these allegations, the Office Action further alleges that the method disclosed by *Bartholomew* “modifies’ the two or more communications lines by determining where the calls should be forwarded.” *Id.* However, this is not correct.

Bartholomew discloses an intelligent peripheral that “performs speaker identification/verification (SIV) on audio signals received from users.” *Bartholomew*, column 12, lines 30-32. The intelligent peripheral of *Bartholomew* “includes storage for subscriber specific template or voice feature information, for use in identifying and authenticating subscribers based on speech.” *Bartholomew*, column 12, lines 35-37. However, *Bartholomew* fails to disclose or suggest any intelligent peripheral that detects “information identifying the communications line” and “information requesting a modification to the identified communications line, the requested modification identifying an additional communications device to which calls received by the identified communications line are forwarded,” as recited by independent claim 1.

Furthermore, while the intelligent peripheral of *Bartholomew* may identify and authenticate speakers based on speech, *Bartholomew* neither discloses nor suggests any intelligent peripheral that “[determines] whether the requested modification changes a procedure for handling of calls,” and that “[generates] an instruction to implement the requested modification when the requested modification changes the procedure, the generated instruction being based on a functionality of a component of the voice network that services the identified communications line,” as further recited by independent claim 1.

Moreover, *Brachman* fails to cure at least the above-noted deficiencies of *Bartholomew*. The Office Action cites *Brachman* as disclosing “a calling system comprising a controller that reads the incoming caller-id information and that forwards a call accordingly.” Office Action at 3. However, even assuming that the characterization of *Brachman* in the Office Action is correct, which Applicants do not concede, *Brachman* still fails to disclose any of the above-noted deficiencies of *Bartholomew*.

In view of the above, the Office Action has neither properly determined the scope and content of the prior art, nor properly ascertained the differences between the claimed subject matter and the prior art. Moreover, the Office Action has pointed out nothing in the prior art that would motivate one of skill in the art to modify the teachings of the prior art to achieve the claimed combination. Accordingly, no reason has been articulated as to why one of skill in the art would find the claimed combination obvious in view of the prior art. For at least this reason, no *prima facie* case of obviousness has been established. The rejection of independent claim 1 under 35 U.S.C. § 103(a), as

being obvious over *Bartholomew* in view of *Brachman*, is thus improper and should be withdrawn.

Further, independent claims 19, 37, and 57-59, although differing in scope from independent claim 1, recite similar elements and are therefore allowable for at least reasons similar to those set forth above for independent claim 1. Accordingly, Applicants respectfully request the reconsideration and withdrawal of the rejection of independent claims 19, 37, and 57-59 under 35 U.S.C. § 103(a).

Claims 2-9, 20-27, and 38-45 depend from one of independent claims 1, 19, and 37. As such, these dependent claims are allowable for at least the reasons set forth above for independent claims 1, 19, and 37. Accordingly, Applicants respectfully request the reconsideration and withdrawal of the rejection of these dependent claims under 35 U.S.C. § 103(a). Further, as claims 10, 28, and 46 have been cancelled without prejudice or disclaimer, the rejection of these claims under 35 U.S.C. § 103(a) is rendered moot.

CONCLUSION

In view of the foregoing, Applicants submit that the remaining claims are in condition for allowance. Applicants, therefore, respectfully request the Examiner's reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this paper and charge any additional required fees to Deposit Account 06-0916.

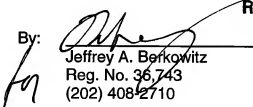
Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Robert E. Converse, Jr.
Reg. No. 27,432

Dated: September 17, 2009

By:


Jeffrey A. Berkowitz
Reg. No. 36,743
(202) 408-2710